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Summary of Stakeholders' submissions on Gabon*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 3 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies[2]

2. Cultural Survival (CS) recommended that Gabon invites the UN Special Rapporteur on the Rights of Indigenous Peoples to visit the country and implements the recommendations from its report to the General Assembly in 2016.[3]

3. CS recommended that Gabon respects the rights of the Indigenous Peoples established under the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP).4

4. JS1 reminded that during the second UPR cycle, Gabon has received a total of 156 recommendations. Of these, 103 were accepted and 53 were noted. An evaluation of a range of legal sources and human rights documentation demonstrate that the government has not fully implemented most of the recommendations it accepted.5

* The present document was not edited before being sent to United Nations translation services.

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5. JS1 recommended that the government prioritises official visits with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the Independence of Judges and Lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on Human Rights Defenders; Special Rapporteur on the Right to Freedom of Association and Assembly and Working Group on Arbitrary Detention.[6]

B. National human rights framework[7]

6. Global Initiative to End all Corporal Punishment of Children (GIEACPC) noted that in Gabon, corporal punishment is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture and the African Committee of Experts on the Rights and Welfare of the Child, and the recommendations made during the 2nd cycle UPR of Gabon.[8]

7. GIEACPC recommended that Gabon clearly prohibits all corporal punishment of children in all settings, respecting the Convention on the Rights of the Child and other human rights instruments.[9]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination[10]

8. CS indicated that the term "Pygmy" carries derogatory and offensive connotations. Nevertheless the term continues to see widespread use. After the recommendations made during the second cycle of the UPR in 2012, Gabon adopted recommendations which committed to work to further integrate the Pygmy population into society at large, and to work to end discrimination against the Pygmy population.[11]

9. CS recommended that Gabon ensures Indigenous people's participation in decision-making at all levels in all matters affecting them.[12]

Development, the environment, and business and human rights[13]

10. CS indicated that widespread foreign investment has made Gabon one of the most prosperous West African nations, with a relatively high Gross National Product. However, the nation also has levels of poverty comparable to low-income countries.[14]

11. CS also indicated that Gabon has undertaken a program of conservation intended to preserve rainforest and biodiversity within the nation, through the creation of Protected Areas (PAs). However these conservation efforts have had negative consequences for local communities and Indigenous people, including depriving them of access to resources associated with traditional patterns of livelihood and access to natural resources.[15]

12. CS recommended that Gabon should work to engage local Indigenous People in conservation efforts, which could be a significant asset in serving environmental goals.[16]

2. Civil and Political Rights

Right to life, liberty and security of person[17]

13. JS1 was alarmed that security forces have used excessive and unlawful force to disperse peaceful protests, particularly during periods of elections and when demonstrators oppose government practices or policies.[18]

14. JS1 indicated that there were some cases in which journalists were arrested, tortured, and detained without any charges. In addition, some of them received death threats from anonymous sources.[19] It recommended that Gabon take steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.[20]

15. JS1 reported that there were cases in which some civil society activists were arrested and detained under inhumane and degrading conditions.[21] JS1 recommended that Gabon stop the intimidation harassment and judicial persecution of civil society activists.[22]

Fundamental freedoms and the right to participate in public and political life[23]

16. JS1 indicated that the national media regulatory body, the National Communications Council (CNC), which is responsible for monitoring the media's compliance with national laws and the Communications Code, has been subject to political influence from the government.[24] JS1 recommended that Gabon reviews and amends the Code of Communication to ensure that it is in line with international best practices and standards on freedom of expression.[25]

17. World Alliance for Citizen Participation (CIVICUS), Brainforest and Dynamique OSCAF (JS1) recommended that Gabon guarantees the following conditions: freedom of association, freedom of expression, freedom of peaceful assembly in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.[26]

18. JS1 was deeply concerned about restrictions on journalists and independent media agencies and the promulgation of unduly restrictive legislation including the Communications Code, which undermine the right to freedom of expression.[27] It recommended that Gabon ensures that journalists are able to work freely and without fear of retribution for expressing critical opinions or for covering topics that the government may find sensitive.[28]

19. JS1 noted that freedom of expression and independence of the media was restricted: particularly, in 2016, following protests against presidential elections, authorities cut Internet and social media.[29] It recommended that the government of Gabon refrains from censoring social and conventional media, particularly in politically sensitive periods and ensured that freedom of expression is safeguarded in all forms.[30]

20. JS1 indicated that concerning the freedom of peaceful assembly, the Gabonese authorities have used excessive force to disperse peaceful protests questioning government policies as well as the outcome of the 2016 national elections.[31] After the results of the presidential elections, security forces forcefully dispersed protests using tear gas, stun grenades, and hot-water cannons.[32]

21. JS1 noted that the process of fully registering NGOs is unnecessarily lengthy: as a result many NGOs operate on a semi-formal basis as their accreditation has not been fully approved. JS1 further noted that NGOs are exposed to undue restrictions from the government who may accuse them of operating illegally. The weaknesses in the registration process can be used by the state to target NGOs which are critical of the government.[33]

22. JS1 stated that human rights defenders and civil society activists have been subjected to judicial persecution, intimidation harassment, assault and have been the victims of smear campaigns to discredit them and their work.[54] JS1 recommended that civil society members should be provided a safe and security environment to carry out their work.[55]

23. JS1 recommended that Gabon takes measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures which limit the right to association.[56]

3. Economic, Social and Cultural Rights

Right to an adequate standard of living[57]

24. CS noted that with the creation of protected areas in Gabon, Indigenous peoples appear to have suffered the most. The establishment of the Ivindo National Park imposed a number of restrictions on local communities regarding hunting, fishing and gathering, which has led to local communities having not only less to eat, but also less surplus to sell, meaning they have fewer resources to pay for necessities including their children's education or medicines.[58]

4. Rights of specific persons or groups

Children

25. GIEACPC further stated that corporal punishment is explicitly prohibited as a disciplinary measure in penal institutions in the Law on the Judicial Regime of Protection of Children, but that there is no provision for judicial corporal punishment in criminal law.[59]

26. GIEACPC further noted that in 2012 following the UPR recommendation to prohibit corporal punishment made in 2008, the Government stated that the Ministry of Social Affairs was developing a Code of Social Action but went on to suggest that corporal punishment remained punishable under existing law. In 2015, the Government reported that the drafting of the Family Code had been initiated, but in March 2017 the draft had still not been finalised.[60]

27. GIEACPC indicated that since the second cycle review in 2012, the Government has been reporting on the drafting of a new Family Code and Children's code, concerning corporal punishment of children. However, despite the state's international obligation to enact a legal ban of all corporal punishment of children, prohibition has not been included in the drafts. Further, GIEACPC recommended that the drafts of the new Family Code and the new Children's Code, provides opportunities to prohibit corporal punishment in the home and in all alternative care and day care settings.[61]

28. GIEACPC noted that corporal punishment of children is unlawful in the penal system, schools and some preschool settings, but is not prohibited in the home and in all alternative care and day care settings.[62]

29. GIEACPC also indicated that in reporting to the African Committee of Experts on the Rights and Welfare of the Child, the Government stated that customary practices regarding corporal punishment still exist and that challenging this was "seen as an interference in the private life of family". The Government went on to report measures to prohibit corporal punishment only in relation to school. The report confirmed that there was no legislation on domestic violence.[63]

30. CS noted with concern the legality of corporal punishment of children in Gabon and make a specific recommendation that the country clearly prohibit all corporal punishment of children in all settings including the home.[44]

Minorities and indigenous peoples[45]

31. CS indicated that conflict between conservation efforts and Indigenous populations stemmed from systemic issues within the legal framework present in the country. CS added that Gabon did not a specific legislation on Indigenous Peoples.[46]

32. CS noted that in Gabon the rights of local communities and Indigenous peoples continued to be largely ignored or outright violated by conservation actors. CS expressed concern about the situation of "Pygmies" as their rights have been disregarded, and the livelihoods of Indigenous communities have been damaged by the conservation efforts. These conservation efforts have had negative consequences for local communities and Indigenous peoples living near the national parks, including depriving them of access to resources associated with traditional patterns of livelihood and access to natural resources.[47]

33. CS indicated that in Gabon, efforts to promote environmental conservation, including rainforests and biodiversity, have led to conflicts with the Indigenous Peoples. CS added that the legal framework present in the country stands in contravention with UNDRIP articles 5, 26, 10, 18, 19, 25, 26, 27 and with the ICCPR, which holds that all Peoples have the right of self-determination.[48]

34. CS reminded that International conservation policy, as expressed through the instruments of the United Nations, calls for participation of local communities in conservation efforts. This includes adequate consultation and the exercise of Free, Prior and Informed Consent (FPIC) by Indigenous Peoples. In Gabon, local and Indigenous communities were not consulted before the creation of the Ivindo National Park in violation of FPIC standards outlined by the UNDRIP.[49]

35. CS also stated that, Indigenous Peoples, as marginalized groups in society, remained disempowered to voice their rights. They continue to have unequal negotiating power, and are subsequently easy targets for outsiders to be exploited physically or intellectually.[50]

36. CS expressed concern on land use rights: local and Indigenous communities have virtually no tenure security over their traditional lands. It further noted that the legal framework of land rights within Gabon stands in contravention of UNDRIP.[51]

37. CS recommended that Gabon integrates community rights to lands, livelihoods, participation and FPIC in all aspects of conservation planning and management. Gabon should consider changes to land use regimes which support traditional land use patterns which are harmonious with the land use needs of Indigenous Peoples; and obtain the FPIC of Indigenous communities in all projects affecting them.[52]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

CS	Cultural Survival, Cambridge, MA;
GIEACPC	Global Initiative to End all Corporal Punishment of Children.

Joint submissions:

JS1	**Joint submission 1 submitted by:** CIVICUS, Brain Forest

and Dynamique OSCAF.

[2] For relevant recommendations see A/HRC/22/5, paras. 101.1 – 101.6, 101.33 – 101.38.
[3] CS, page.8, para.6 and 7.
[4] CS, page 2, para.1.
[5] JS1, page 2, para. 1.5.
[6] JS1, page 15, para. 6.5.
[7] For relevant recommendations see A/HRC/22/5, paras. 101.12 – 101.15, 101.20 – 101.22, 101.27 and 101.57.
[8] GIEACPC, page 1.
[9] GIEACPC, page 1.
[10] For relevant recommendations see A/HRC/22/5, paras. 101.28, 101.42 – 101.44.
[11] CS, page 4 and 5, para. 3.
[12] CS, page 8, para 6 (6).
[13] For relevant recommendations see. A/HRC/22/5, paras. 101.93 and 101.105.
[14] CS, page 2, para. 2.
[15] CS, page 5, para. 4 (A).
[16] CS, page 8, para 6.1.
[17] For relevant recommendations see A/HRC/22/5, paras. 101.30, 101.50 – 101.56 and 101.72.
[18] JS1, page 3, para 1.6.
[19] JS1, pages 4,5,6.
[20] JS1, page 14, para 6.1.
[21] JS1, page 11, para. 4.5.
[22] JS1, page 14, para. 6.2.
[23] For relevant recommendations see A/HRC/22/5, paras. 101.8, 101.39 – 101.41.
[24] JS1, page 4, para. 2.3.
[25] JS1, page 13, para 6.1.
[26] JS1, page 13, para. 6.
[27] JS1, page 5, para. 2.4.
[28] JS1, page 14, para. 6.1.
[29] JS1, page 5, para. 2.7.
[30] JS1, page 14, para. 6.1.
[31] JS1, page 10, para. 4.2.
[32] JS1, page 10, para. 4.3.
[33] JS1, pages 12 and 13, para. 5.3.
[34] JS1, page 8, para. 3.2.
[35] JS1, page 14, para 6.2.
[36] JS1, page 15, para. 6.4.
[37] For relevant recommendations see A/HRC/22/5, paras. 101.83 – 101.86.
[38] CS, pages 5 and 6.
[39] GIEACPC, page 3, para. 2.7 and 2.8.
[40] GIEACPC, page 2, para. 2.2.
[41] GIEACPC, page 1 and 2, para 1.2 and summary of current law and opportunities for achieving prohibition.
[42] GIEACPC, page 2.
[43] GIEACPC, page 2, para. 2.3.
[44] GIEACPC, page 1.
[45] For relevant recommendations see A/HRC/22/5, paras. 101.45,101.96 – 101.104.
[46] CS, page 7, para. C.
[47] CS, page 3.
[48] CS, page 5, 6, 7.
[49] CS, page 6, para. B.
[50] CS, page 6 and 7.
[51] CS, page 7, para. C.
[52] CS, page 8, para 6 (2-3-4).